Current Lawsuits Involving MIT

Title	MIT is	Field	Nature of Suit	Status
Shin v. Massachusetts Institute of Technology, et al.	Defendant	Jan. 28, 2002 in Middlesex Superior Court	The parents of Elizabeth H. Shin '02 allege that MIT's medical care and deans, the Campus Police, and a lax fire-safety policy in Random Hall were responsible for her April 2000 suicide. They assert against MIT: breach of contract, breach of implied covenant of good faith and fair dealing, promissory estoppel, and unfair and deceptive business practices. Against Henderson, Mthembu, Davis-Millis (deans and housemaster): negligent misrepresentation, negligence, wrongful death, wrongful death gross negligence, conscious pain and suffering, and negligent infliction of emotional distress. Against Reich, Girard, Cunningham, Van Niel, Gottfried (doctors): medical malpractice (negligence, wrongful death, wrongful death gross negligence, conscious pain and suffering, negligent infliction of emotional distress, and deceptive business practices). Against Glavin, Tirella, Valentino (campus police): negligence, wrongful death, wrongful death gross negligence, conscious pain and suffering, and negligent infliction of emotional distress. Against Doe (responsible for fire suppression system, Random Hall fire-safety protocol): negligence, wrongful death, wrongful death gross negligence, and conscious pain and suffering.	A panel comprising a judge, a lawyer and a psychiatrist will soon hold a hearing, known as a medical malpractice tribunal, to evaluate the Shins' medical malpractice claims against each of the accused MIT doctors. If the tribunal does not find evidence of malpractice, the Shins must post a bond before their lawsuit is allowed to continue. Depositions of MIT students and others continue. Jury trial to be held by end of January 2005.
Massachusetts Institute of Technology v. Dolby Laboratories Inc.	Plaintiff	March 5, 1997 in the U.S. District Court for the District of Massachusetts	Dolby and MIT agreed in January 1993 to share royalties if either's audio system were selected by the Federal Communications Commission for the U.S. digital television standard. The agreement was to terminate "if the FCC does not reach a decision selecting either the MIT or the Dolby proposal [for digital audio] by December 31, 1994." MIT says the agreement remains in force because the FCC's Advisory Committee for Advanced Television Service (ACATS) selected Dolby's audio system, known as Dolby Digital or AC-3, in the fall of 1993. Dolby contends, however, that the agreement terminated because the FCC did not formally select Dolby's system until it adopted a final rule specifying the entire digital television standard in December 1996. Still, MIT said, Dolby assured MIT Professor Jae S. Lim '74 in writing in August 1993 that various products would be covered under the agreement, in an effort to convince him to cast MIT's vote for Dolby's audio system as part of MIT's membership in the "Grand Alliance" organized to form a recommendation to ACATS. When making those assurances, "Dolby was specifically aware that a formal adoption" of the resulting standard "by the Commission itself would not occur before the end of 1994," MIT wrote in a pre-trial filing. MIT claimed Lim only voted for Dolby (resulting in the selection of Dolby's audio system over MIT's) because of these assurances. In any case, Dolby asserted in a pre-trial filing, the agreement terminated by January 1995 because of another provision specifying expiration if no licenses had yet been issued, as Dolby said was the case.	A federal judge threw out four of MIT's five counts in January 2001, leaving only the charge of breach of the written agreement. There will be a five-day trial on the question of whether Dolby is liable starting April 15 in Boston, before an eight-person federal jury. If MIT prevails and the jury finds the agreement to remain in force, the case will enter a new phase to determine the amount of damages Dolby should pay MIT.
Massachusetts Institute of Technology v. Lockheed Martin Global Telecommunications Inc.	Plaintiff	Sept. 21, 2001 in the U.S. District Court for the District of Massachusetts.	MIT alleges that Lockheed, by selling its "satellite services and terminals," is willfully infringing MIT's U.S. Patent No. RE 36,478, "Processing of acoustic waveforms," issued for an invention by Lincoln Laboratory senior staff member Thomas F. Quatieri ScD '80 and Robert J. McAuley. Lockheed counters that MIT has sued the wrong company by mistake.	There will be a scheduling conference on April 16 in Boston.
Sagar v. Massachusetts Institute of Technology, et al.	Defendant	June 30, 1999 in the U.S. District Court for the District of Massachusetts	Ambuj D. Sagar PhD '94 sued MIT and Massachusetts General Hospital claiming that MIT and MGH had wrongfully omitted him from the list of inventors of U.S. Patent No. 5,879,400, concerning the construction of a medical prosthetic out of a polyethylene material, and two patent applications. Sagar also claimed co-ownership of the patents and applications. MIT and MGH contend that Sagar was not involved in the inventions and that, in any case, Sagar signed over his ownership rights to MIT as part of an employment contract.	The court threw out Sagar's claims to the patent applications in April 2001. On March 25, 2002, U.S. District Judge Nancy Gertner granted MIT and MGH's motion to hold a non-jury trial solely on the issue of whether Sagar had participated in the invention covered by the '400 patent. "Presuming that Sagar prevails in his bench trial on the issue of inventorship," Gertner wrote, "proving the issue of ownership to a jury should be relatively simple as he will merely need to show that he did not alienate his legal title in the subject matter of the patent."
Akamai Technologies Inc., et al. v. Digital Island Inc.	Plaintiff	Sept. 13, 2000 in the U.S. District Court for the District of Massachusetts	Akamai and MIT alleged that Digital Island (now part of the large communications company Cable and Wireless PLC) infringed MIT's U.S. Patent No. 6,108,703, "Global hosting system" (for an invention by Professor of Mathematics F. Thomson Leighton PhD '81 and his former student, the late Daniel M. Lewin SM '98, and exclusively licensed to Akamai), and Akamai's U.S. Patent No. 6,003,030, "System and method for optimized storage and retrieval of data on a distributed computer network." Akamai and MIT also sought a declaration that Digital Island's U.S. Patent No. 5,978,791, "Data processing system using substantially unique identifiers to identify data items..." did not cover Akamai's distributed Internet hosting service.	A federal jury found on Dec. 21, 2001 that Digital Island had infringed MIT's patent, although it declared part of the patent to be "invalid as obvious." Digital Island did not infringe Akamai's patent, the jury found, nor does Akamai's service infringe Digital Island's patent. Akamai has asked the court to throw out the jury's invalidation of part of MIT's patent, saying in a filing that the jury's decision was reached "by mistake" and would be "a miscarriage of justice." In particular, Akamai contends that the jury was improperly provided with a highlighted copy of Digital Island's patent during deliberations, contrary to court instructions. Digital Island, in turn, has asked the court to extend the jury's invalidation to include the part of the patent it was found to have infringed, saying it was unreasonable for the jury to find one part of the patent to be "obvious" without finding the same for the rest of it. Alternately, Digital Island has requested that the jury be asked to declare MIT's patent "unenforceable as a result of Akamai's inequitable conduct" during the process of filing for the patent. The court heard arguments on these motions on March 14 and may soon issue a ruling. The court will hold hearings at a later date on Akamai's request for a permanent injunction against Digital Island.
Akamai Technologies Inc., et al. v. Speedera Networks Inc.	Plaintiff	Feb. 4, 2002 in the U.S. District Court for the District of Massachusetts	Akamai and MIT allege that Speedera's "Universal Delivery Network" infringes MIT's '703 patent and Akamai's '030 patent (see *Akamai Technologies Inc., et al. v. Digital Island Inc.*, above), and that remarks a Speedera vice president made to a reporter about former Akamai customers having "moved to Speedera" constituted unfair competition and false advertising. In a response filed March 29, Speedera denied that "it currently provides a service called Universal Delivery Network," asked the court to declare MIT's and Akamai's patents invalid, and said its statements were "mere expression of opinion that would be understood by any reasonable member of the public as such."	Parties to begin discovery.
Massachusetts Institute of Technology, et al. v. Abacus Software, et al., and *Massachusetts Institute of Technology, et al. v. Gateway Inc., et al.*	Plaintiff	Dec. 28, 2001 in the U.S. District Court for the Eastern District of Texas	MIT and Electronics for Imaging Inc. alleged infringement of MIT's U.S. Patent No. 4,500,919, "Color reproduction system," by 98 companies including Microsoft, Casio, Gateway and Nikon. The patent will expire May 4, 2002.	MIT and EFI dismissed their complaints against IBM Corp. (Jan. 9) and its subsidiary Lotus Development Corp. (Jan. 14). On March 25, they settled their complaints against Mentalix Inc., American Systems, and Digital Light and Color Inc. The reasons for the dismissals and the contents of the settlements were not immediately available.
Massachusetts Institute of Technology v. Time Inc., et al.	Plaintiff	June 11, 2001 in the U.S. District Court for the District of Massachusetts	MIT alleges that the magazine *Fortune/CNET Technology Review* published by Time and CNET Networks Inc. infringes its registered trademark on the title of its own publication, *Technology Review*, and asserts claims of trademark infringement, famous mark dilution, unfair competition, and unfair and deceptive trade practices. Time has filed a counterclaim requesting the court to throw out MIT's registered trademark on the grounds that "the phrase 'technology review' is a generic name..., and cannot be appropriated exclusively by any single publisher of a publication that focuses upon technology." For support, Time also references existing registered trademarks for publications with which MIT has not contended, such as *Financial Technology Review* and *Computer Technology Review*.	Discovery is to be completed by September, with a case management conference scheduled for Oct. 18, 2002.
American Superconductor Corp. v. Massachusetts Institute of Technology	Plaintiff and Defendant	Aug. 21, 2001 in the U.S. District Court for the District of Massachusetts	American Superconductor filed this lawsuit appealing a June 6, 2001 decision of the U.S. Patent and Trademark Office Board of Patent Appeals and Interferences, asking the court to reverse "the Board's holding that there is an interference in fact" between a patent application filed by American Superconductor and an existing MIT patent exclusively licensed to the company. U.S. Patent Nos. 5,439,880 and 5,643,856 were issued to MIT in the mid 1990s for inventions by Professor John B. Vander Sande and former Professor Gregory Yurek, both founders of the company, concerning superconducting oxides. An "interference" here refers to a determination that the patent application attempts to cover an invention that is already patented. MIT replied with an answer in which it admitted all of American Superconductor's factual allegations, and a countersuit where it also requested the court to reverse "the Board's holding that there is an interference-in-fact." American Superconductor replied to MIT's countersuit, admitting every paragraph. Normally in litigation, the defendant will not admit every one of the plaintiffs assertions and also request the same actions as the plaintiff from the court. In this case, said James B. Lampert, an attorney representing American Superconductor, MIT and the company "are not really suing each other. The patent office made a decision that both MIT and ASC disagree with. The only way to get that reviewed by the court" is to file such a lawsuit, Lampert said. "The patent office's view was that [the application and the existing MIT patent] were for the same invention, and MIT and ASC's view was that these were for quite distinct inventions," Lampert said. On Nov. 29, 2001, the acting commissioner of the patent office, Nicholas P. Godici, filed to intervene in the lawsuit. In a court filing, Godici denied most of MIT's and American Superconductor's factual assertions, and further stated that "The case should be dismissed ... because there is a lack of adversity between [American Superconductor] and MIT," and because the company, "having prevailed" over MIT in front of the interference board, cannot appeal a ruling in which it won.	The three parties had a four-day non-jury trial in Boston in mid-February, with no judgment yet issued. Transcripts of the trial were not yet available in court records.
Mai Associates Inc, et al. v Barr & Barr Inc., et al.	Defendant	March 22, 2002 in Middlesex Superior Court	Construction dispute. Mai was minority contractor on construction at 28 Osborne St., bought by MIT from Polaroid in 1999. Alleges was treated badly and wrongfully terminated.	Not yet served. Jury trial would be held by March 2005.
Massachusetts Institute of Technology v. United States	Plaintiff	Nov. 7, 2000 in the U.S. Court of Federal Claims. Consolidated into *Sweet, et al. v. United States*, filed May 11, 2000, and with *Massachusetts General Hospital v. United States*, filed July 27, 2001	Court filings were not immediately available, but action likely relates to boron neutron capture therapy experiments performed at MIT in the 1950s and 1960s by the late Dr. William H. Sweet. In October 1999, a federal jury found Sweet and MGH liable for $8 million in the deaths of two patients subjected to the experimental technique in the 1960s. The jury found MIT not liable in the deaths, and in February 2000 a federal judge also found the U.S. government, which funded the research, not liable. (That case, *Heinrich, et al v. Sweet, et al*, was appealed and is currently pending before the U.S. Court of Appeals for the First Circuit, but MIT was dismissed on March 14, 2002 by agreement of the parties.)	A federal judge will hear oral arguments on April 24 in Washington, D.C. on the government's motion to dismiss the case.
Convolve Inc., et al. v. Compaq Computer Corp.	Plaintiff	July 13, 2000 in the U.S. District Court for the Southern District of New York	Court filings were not immediately available. The *Boston Herald* reported that MIT and Convolve sued Compaq and Seagate Technology LLC for $800 million, alleging infringement of a patent on a motion control technique for disk drives.	Unavailable
Freeman v. City of Cambridge, et al.	Defendant	Jan. 18, 2000 in Middlesex Superior Court	Court filings were not immediately available. Action is for wrongful death. Defendants include the City of Cambridge, Commonwealth of Massachusetts, MIT, Verizon, and 21 other corporations and individuals. MIT has filed a counterclaim.	Jury trial to be held by January 2003.
Page v. Massachusetts Institute of Technology	Defendant	May 17, 2001 in Essex Superior Court	Real estate ownership dispute. Court filings were not immediately available.	In discovery. To be decided by July 2002.
Krueger v. Fraternity of Phi Gamma Delta, et al.	Not a party	Sept. 25, 2000 in Suffolk Superior Court	Wrongful death claim filed by parents of Scott S. Krueger '01 against Phi Gamma Delta's former MIT chapter, the fraternity's national organization, and various former members of the fraternity. MIT settled its own lawsuit from the Kruegers for $6 million in September 2000.	Parties in mediation until April 29, 2002.
In re Diet Drugs (Phentermine, Fenfluramine, Dexfenfluramine) Products Liability Litigation	Defendant	Dec. 11, 1997 in the U.S. District Court for the Eastern District of Pennsylvania	Complicated class-action lawsuit against many defendants regarding Fen-Phen diet pills. An MIT professor, Richard J. Wurtman, invented the drug and, *The Boston Globe* reported in 1997, was at one point worth billions of dollars as a result.	American Home Products Corp., now known as Wyeth, agreed in January 2002 to pay a $3.75 billion settlement in the class-action suit. Any decision in the case as to MIT was not immediately unavailable.
Ikos Systems Inc. v. Axis Systems Inc.	Unknown party	Sept. 18, 2001 in the U.S. District Court for the Northern District of California	Patent infringement	Unavailable

COMPILED BY KEITH J. WINSTEIN FROM STATE AND FEDERAL COURT RECORDS